

**SYDNEY NORTH PLANNING PANEL
COUNCIL ASSESSMENT REPORT**

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| Panel Reference | PPSSNH-583 |
| DA Number | Mod2024/0550 |
| LGA | Northern Beaches |
| Proposed Development | Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking |
| Street Address | Lot 3 DP 805710 No. 181 Forest Way, Belrose |
| Applicant/Owner | Regis Aged Care Pty Ltd |
| Date of DA lodgement | 22/10/2024 |
| Number of Submissions | 2 |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 | 4.56 modification application to a development that has a capital investment value of more than \$30 million. |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> • State Environmental Planning Policy (Housing) 2021 • SEPP (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) • State Environmental Planning Policy (Resilience and Hazards) 2021 • Warringah Local Environmental Plan 2000 - Locality: B2 Oxford Falls Valley • Warringah DCP 2000 • Relevant Environmental Planning and Assessment Regulations |
| Locality | B2 Oxford Falls Valley |
| Category of Development under WLEP 2000 | Category 2 – Housing for older people or people with disabilities |
| Integrated Development | Yes |
| Estimated Cost of Works | Parent DA - \$32,596,460.00 Previous modification - \$28,081,870.00 Additional work associated with S4.56 - \$306,658.00 Revised cost at lodgement of 4.56 modification application - \$28,388,528.00 |
| List all documents submitted with this report for the Panel's consideration | <ul style="list-style-type: none"> • Statement of Modification • Architectural Plans • Landscape Plans • Confirmation regarding WELS Rating • Transport Assessment • BCA Report • Acoustic Report • Access Statement • Detailed Design Report • Bushfire Report • Biodiversity Management Plan |

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| | <ul style="list-style-type: none"> • Civil Stormwater Section 4.56 Amendment Letter • Civil Plans • General Principles of Development Control |
| Summary of submissions | <ul style="list-style-type: none"> • Additional parking • Spa and hairdresser • Fencing • Construction storage • Traffic • Noise • Light pollution |
| Report prepared by | Kye Miles - Planner |
| Report date | 4 April 2025 |

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| Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? | Yes |
| Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report? | Yes |
| Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? | No, Modification Application |
| Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? | No |
| Conditions Have draft conditions been provided to the applicant for comment? | Yes |

MODIFICATION APPLICATION ASSESSMENT REPORT

EXECUTIVE SUMMARY

Council has received Modification Application No. Mod2024/0550, which seeks to modify Development Consent No. DA2018/1654. The original approval was for demolition works and the construction of a new aged care facility, including underground parking, at Lot 3 DP 805710, No. 181 Forest Way, Belrose.

The proposed modifications include new rooftop and Level 2 communal open space elements, such as a lift overrun, pergola, and plant screening.

As the original development had a cost of works (CIV) exceeding \$30 million, the modification application has been referred to the Sydney North Planning Panel for determination. The amended proposal has a revised CIV of \$28 million.

The application is made pursuant to Warringah Local Environmental Plan 2000 and is within the “*Deferred Lands*” under Warringah Local Environmental Plan 2000. The site is located in the B2 Oxford Falls Valley Locality and is Category 2 development. The proposal is subject to the seniors housing provisions under Clause 29, Clause 40, and Schedule 16 of WLEP 2000, which have been addressed in the report.

The NSW Rural Fire Service (RFS) and Transport for NSW (TfNSW) were consulted as the original development was classified as integrated development and both have issued their approval for the application.

During the public exhibition, two submissions were received, raising concerns about landslip, flooding and stormwater runoff, bushfire risk, building height, visual impact, and amenity.

The proposed modifications exceed the 8.5-metre building height control. The most significant height variation is the lift overrun, which exceeds the limit by up to 2.5 metres (a 37.5% variation). Therefore, the application relies upon a Clause 20 Variation Request to vary the built form controls under the WLEP 2000. This assessment finds that the Clause 20 Variation is supported as the modified scheme maintains consistency with the Desired Future Character Statement and the General Principles of Development Control under WLEP 2000.

The modified proposal is assessed as being substantially the same development as the approved development and will maintain a good level of internal amenity for occupants and neighbours alike. The modified proposal, aligns with the approved built form and maintains an acceptable level of internal and external amenity, is well-designed, appropriately proportioned, and will integrate well within the landscape setting and not detract from the streetscape

Accordingly, it is recommended that the Sydney North Planning Panel, as the determining authority, approve the modification application subject to the inclusion of additional conditions in the development consent as attached.

PROPOSED DEVELOPMENT

This Section 4.56 Modification Application seeks to amend Development Consent no. DA2018/1654 granted by the NSW Land and Environment Court for demolition works and the construction of an aged care facility atop basement parking (*Chriroseph Pty Ltd v Northern Beaches Council [2020] NSWLEC 1502* dated 22 October 2020).

The modifications involve refinements to the approved development and changes to conditions.

Changes to Built Form and Site Planning

The main changes sought by this modification include:

- Changes to internal layout of units and communal spaces.
- Refinement of outdoor recreation spaces
- Changes to the size and extent of the roof plant and screens.
- Relocation of the OSD from the building's internal courtyard to outside the building's footprint.

The submitted Summary of Design Changes details these changes level by level.

The proposed modifications result in a 50.7m² reduction of gross floor area (GFA) and subsequent removal of 6 bedrooms (97 in total).

No changes are proposed to parking.

Changes to Approved Conditions

The modification involves changes to the following conditions:

- Modify Condition No. 22 - Engage a Project Ecologist: Include reference to the updated Biodiversity Management Plan (dated 10 May 2024) and minor wording amendments.
- Modify Condition No. 49 - Certification for the Installation of Stormwater Quality System: Resolve a minor administrative typographical error.

- Delete Condition No. 56 - Installation of Water Efficient Fittings.
- Delete Condition No. 67 - Basement Servicing – Internal Signals.

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the EP&A Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the EP&A Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority officers on the proposal.

SITE DESCRIPTION

The subject site is located on the eastern side of Forest Way, generally mid-way between Morgan Road in the north and Perentie Road in the south.

The subject site is legally identified as Lot 3 in Deposited Plan No 805710 and is known as No. 181 Forest Way Belrose.

The subject site is a large (near) regular shaped single lot with dimensions of 91 metres across the frontage to Forest Way, 195 metres along the northern boundary to the unformed road, 189 metres along the southern boundary and 127 metres across the eastern rear boundary.

The subject site has a total area of 2.117 hectares. Currently erected on the land is a large freestanding dwelling.

Vehicle access to the dwelling is currently gained from a driveway off the Crown Road, which runs along the northern boundary of the site.

The subject site is identified as bushfire prone land and is situated within a riparian zone.

The surrounding development consists of low-density residential dwellings to the north and west, and semi-rural lands with dwelling houses and ancillary development to the east and south.

The site is located within the 'deferred lands' under Warringah Local Environmental Plan 2011. The site is subject to the B2 Oxford Falls locality under Warringah Local Environmental Plan 2000.



Figure 1: Subject Site outlined in blue

RELEVANT SITE HISTORY

Development Application No. DA2017/0697

An application for the demolition of existing structures and Construction of a new 140 bed aged care facility including parking for 50 vehicles (DA2017/0697) was lodged in July 2017. A preliminary assessment of the application revealed a number of fundamental issues/concerns with the application. Subsequently, the application was withdrawn by the Applicant in October 2018.

Development Application No. DA2018/1654

An application for the demolition of existing structures and Construction of a new 100 bed aged care facility including parking for 50 vehicles. This application was lodged on 9 October 2018.

The Sydney North Planning Panel was briefed on 30 January 2019 and were informed that Council was intending to request the withdrawal of the application, due to a number of concerns and issues including:

- Bushfire
- Desired future character
- Support Services
- WLEP 2000 Clause 57 Development on sloping land
- WLEP 2000 Clause 58 Protection of existing flora
- WLEP 2000 Clause 66 Building Bulk

This withdrawal request due to the above issues was made on 12 February 2019.

The applicant did not withdraw the application but began separate discussions with the NSW RFS to resolve the bushfire issues.

On 20 November 2019, the applicant submitted amended plans, reports and documentation for the development. The changes reduced the size of the development from 138 rooms to 100 and increased the side setbacks to attempt to satisfy bushfire requirements.

On 31 March 2020, despite the discussions between the applicant and the NSW RFS, the RFS responded to the application and recommended refusal.

On 24 April 2020, the application was considered and refused by the Sydney North Planning Panel, with regards to;

1. *The current design and supporting documentation, have not satisfied the New South Wales Rural Fire Service.*
2. *The proposal is an overdevelopment of the site, in that the design requires part of the neighbouring property to be managed for bushfire protection purposes.*

On 8 May 2020, the applicant filed a Class 1 appeal with the Land & Environment Court (*Chriroseph Pty Ltd v Northern Beaches Council [2020] NSWLEC 1502*)

On 19 August 2020, a S34 conciliation conference was held between Council and the applicant.

On 29 September 2020, a signed S34 agreement was filed with the Court. The agreement that was ratified by the Court, accepted and relied upon the agreement of the bushfire experts, which was set out in the amended bushfire report prepared by Travers bushfire & ecology (dated September 2020). Of particular importance to this agreement was the approved APZ, as depicted below, which included streetscape planting provisions of a 5 metres wide bushland buffer to Forest Way that was excluded from the APZ on the western side of the building, while the northern portion of the site was excluded from the approved APZ to avoid and minimise impacts to vegetation of high biodiversity significance, including the Duffys Forest Threatened Ecological Community (TEC).



Figure 2: Approved APZ in green

On 22 October 2020, a deferred commencement approval was granted by the Court. The deferred commencement condition required approval from Sydney Water for sewer access, prior to the consent becoming operational

Modification Application No. Mod2022/0289

This application was for the modification of Development Consent DA2018/1654, including changes to the internal layout and the external parking area at ground level and revised building identification signage on the approved front boundary wall. This application was lodged on 27 June 2022.

The Sydney North Planning Panel was briefed on 24 August 2022 and was informed of the following key issues:

- *New ground floor parking arrangement removes a section of soft landscaping which provides screening within the front setback.*
- *No landscape plan submitted.*
- *Referrals outstanding, including Engineering, Traffic, NSW RFS.*
- *Revised CIV schedule.*
- *Bushland biodiversity referral responses received with no additional changes.*

On 24 April 2020, the application was considered and approved by the Sydney North Planning Panel

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EP&A Act 1979)

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2018/1654, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 4.56 of the Environmental Planning and Assessment Act, 1979, are:

| Section 4.56- Other Modifications | Comments |
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| (1) A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if: | |
| (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and | <p>It is considered that the development as to be modified, subject to recommended conditions is substantially the same as the development for which the consent was originally granted under DA2018/1654 for the following reasons:</p> <ul style="list-style-type: none">• The modified development remains consistent with the original approval in terms of use and density of development.• The modifications largely involve changes to the internal layout and outdoor communal areas |

| Section 4.56- Other Modifications | Comments |
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| | <ul style="list-style-type: none"> The bulk and scale of the development remain largely the same, with the exception of the new roof plant and acoustic screening and visually is not significantly altered from the original approval when viewed from the public realm. |
| <p>(b) it has notified the application in accordance with:</p> <p>(a) the regulations, if the regulations so require,</p> <p>or</p> <p>(ii) a development control plan, if the consent authority is a council that has made a development control plan under section 72 that requires the notification or advertising of applications for modification of a development consent, and</p> | <p>The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, and the Northern Beaches Community Participation Plan.</p> |
| <p>(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and</p> | <p>Written notices of this application have been sent to the last address known to Council of the objectors or other persons who made a submission in respect of DA2018/1654.</p> |
| <p>(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</p> | <p>See discussion on “Notification & Submissions Received” in this report.</p> |
| <p>(1A) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application. The consent authority must also take into consideration the reasons given by the consent authority for the grant of the consent that is sought to be modified.</p> | <p>The proposed modification is considered consistent with the reasons for approval given by the Land and Environment Court for the original consent, as outlined throughout this report.</p> <p>In particular, whilst the proposal seeks consent for new works above the height limit, the modified development satisfies the requirements of cl 20(1) of the WLEP 2000, as the resulting development is consistent with;</p> <ul style="list-style-type: none"> the general principles of development control, the desired future character of the locality, and; the relevant State environmental planning policy. |

Section 4.15 Assessment

In accordance with Section 4.56 of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 4.55 the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

| Section 4.15 'Matters for Consideration' | Comments |
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| Section 4.15 (1) (a)(i) – Provisions of any environmental planning instrument | See the discussion on “Environmental Planning Instruments” in this report. |
| Section 4.15 (1) (a)(ii) – Provisions of any draft environmental planning instrument. | None applicable. |
| Section 4.15 (1) (a)(iii) – Provisions of any development control plan. | None applicable |
| Section 4.15 (1) (a)(iia) – Provisions of any planning agreement. | None Applicable. |
| Section 4.15 (1) (a)(iv) – Provisions of the Regulations. | <p>The <i>EPA Regulations 2021</i> requires the consent authority to consider the provisions of the Building Code of Australia. This matter was addressed via a condition of consent in the original application.</p> <p>Clause 61 of the <i>EPA Regulations 2021</i> requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter was addressed via a condition of consent in the original application.</p> |
| Section 4.15 (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. | <ul style="list-style-type: none"> i. The environmental impacts of the proposed development on the natural and built environment are addressed under the <i>Warringah LEP 2000</i> section of this report. The are deemed to be acceptable, subject to recommended conditions. ii. The modified development will provide seniors housing in the locality, therefore the development ensures that the housing stock caters for a broad cross section of the community. In terms of the provision of housing, the proposed development will not have a detrimental social impact on the locality. iii. The modified development will not have a detrimental economic impact on the locality considering the nature of the proposed land uses. |
| Section 4.15 (1) (c) – the suitability of the site for the development. | Given its proximity to frequent public transport and the minimal amenity impacts on surrounding and nearby properties, the site is capable of accommodating a residential care facility. |
| Section 4.15 (1) (d) – any submissions made in accordance with the <i>EPA Act</i> or <i>EPA Regs</i> | <p>The application received two submissions.</p> <p>The issues raised are addressed under ‘Notification & Submissions Received’ within this report.</p> |
| Section 4.15 (1) (e) – the public interest. | No matters have arisen in this assessment that would justify the refusal of the application in the public interest. |

EXISTING USE RIGHTS

Existing Use Rights do not apply to this application.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited from 31/10/2024 to 28/11/2024 in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021 and the Community Participation Plan.

As a result of the public exhibition process council is in receipt of 2 submission/s from:

| Name | Address |
|--------------------------------|-------------------------------------|
| Mr Warwick Andrew Wood | 19 Mathews Street DAVIDSON NSW 2085 |
| Mr Trad Jeremy Phyllip Edwards | 179 Forest Way BELROSE NSW 2085 |

Assessment of Residents Issues

The relevant matters raised within the submissions have been considered and are addressed as follows:

- **Landslip,**
- **Flooding and stormwater run-off,**
- **Bushfire,**
- **Building height and visual impact, and**
- **Amenity impacts.**

The above issues are addressed as follows:

- **Landslip**

The submissions raised concerns that the steep slope on the eastern section of the subject site poses potential stability risks, particularly given a recent landslip on a neighbouring property caused by construction. Concerns include the removal of vegetation, reducing soil stability, bioretention basins causing waterlogging and increasing landslide risk, and the additional load from a proposed retaining wall and infill potentially destabilising the slope.

Comment:

The modification does not propose any significant additional site disturbance or vegetation removal. The original application was supported by a Geotechnical Report, which assessed the geotechnical and landslip risks associated with the development. The report concluded that the development could proceed without undue geotechnical risks, provided its recommendations, incorporated into the consent were followed. The modifications do not alter the approved geotechnical requirements, and the associated works are considered minor in this regard.

This matter does not warrant the refusal of the application

- **Flooding and stormwater run-off**

The submissions raised concerns that the proposed changes to the landform and additional hard surfaces on the subject site will result in adverse stormwater run-off and flooding impacts to downstream properties.

Comment:

The revised stormwater design has been assessed by Council's Development Engineers in relation to stormwater. The Engineers have raised no objections to the proposal, subject to conditions. Therefore, Council is satisfied that the development will not cause significant detrimental impacts because of stormwater discharge from the development site.

This matter does not warrant the refusal of the application.

- **Bushfire**

The submissions raised concerns about the bushfire asset protection zone (APZ) and associated vegetation loss.

Comment:

The modification does not seek any changes to the court-approved APZ or require the removal of any additional vegetation.

This matter does not warrant the refusal of the application.

- **Building height and visual impact**

The submissions raised concerns that the proposed elements above the height limit will detract from the visual amenity of the locale.

Comment:

The height of the proposal does not comply, however, an assessment has found the non-compliance to be acceptable. This is discussed in more detail under Clause 20, below in this report. In summary, the scale of the modified development (which is found to be commensurate to the lot size and surrounding developments) elsewhere in this report, it is considered that the proposed modifications area adequately articulated to and separated from the boundaries to mitigate bulk and scale impacts.

This matter does not warrant the refusal of the application.

- **Amenity impacts**

The submissions raised concerns that the proposal would result in unacceptable amenity impacts.

Comment:

The proposed modifications are largely internal and do not reduce the approved building separation. Overall, the proposal will not result in unreasonable amenity impacts.

This matter does not warrant the refusal of the application.

EXTERNAL REFERRALS

| External Referral Body | Recommendation/Comments |
|-----------------------------------|--|
| NSW Rural Fire Services (NSW RFS) | Supported, subject to Conditions The application was referred to the NSW RFS as integrated development. The NSW RFS issued a bush fire safety authority, subject to conditions. The recommendations of the Bush Fire Report, along with the conditions from the NSW RFS as part of the bush fire safety authority, have been included as part of the recommended conditions of consent. |
| Aboriginal Heritage office | Supported, no Conditions The Aboriginal Heritage Office commented: <i>No sites are recorded in the current development area and the area has been subject to previous disturbance reducing the likelihood of surviving unrecorded Aboriginal sites.</i> <i>Given the above, the Aboriginal Heritage Office considers that there are no Aboriginal heritage issues for the proposed development.</i> <i>Under the National Parks and Wildlife Act 1974 (NPW Act) all Aboriginal objects are protected. Should any Aboriginal Cultural Heritage items be uncovered during earthworks, works should cease in the area and the Aboriginal Heritage Office assess the finds. Under Section 89a of the NPW Act should the objects be found to be Aboriginal, Heritage NSW and the Metropolitan Local Aboriginal Land Council (MLALC) should be contacted.</i> |

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| Ausgrid | <p><i>Supported, subject to Conditions</i></p> <p>The proposal was referred to Ausgrid who provided a response stating that the proposal is acceptable subject to compliance with the relevant Ausgrid Network Standards. These recommendations will be included as a condition of consent.</p> |
| NSW Police | <p><i>Supported, subject to Conditions</i></p> <p>The application was referred to the NSW Police who provided a response stating that the proposal is acceptable subject to the recommendations made by the Northern Beaches Crime Prevention Officer. These recommendations will be included as a condition of consent.</p> |
| Transport for NSW | <p><i>Supported, subject to Conditions</i></p> <p>Transport for NSW commented:</p> <p><i>Reference is made to Council's referral regarding the abovementioned application which was referred to Transport for NSW (TfNSW) for comment in accordance with Section 2.119 of the State Environment Planning Policy (Transport and Infrastructure) 2021.</i></p> <p><i>TfNSW has reviewed the submitted modifications and raises no objections, as the proposed development is not anticipated to significantly impact the state classified road network as long as the previous conditions provided by TfNSW are maintained.</i></p> <p><i>As such, TfNSW advises that the conditions outlined in the Agency's letter dated 6 June 2018 (TAB A) remain applicable to the development proposal, subject to the amendments to the wording of Conditions 2, 7, 8 and 10 in the Agency's letter dated 6 June 2018 and a new Condition 11 as detailed in TAB B. The changes to the previously imposed conditions update the TfNSW contact details that are provided in those conditions.</i></p> <p>These recommendations will be included as a condition of consent.</p> |

INTERNAL REFERRALS

| Internal Referral Body | Recommendation/comments |
|---|---|
| Building Assessment – Fire and Disability upgrades | <p><i>Supported, subject to Conditions</i></p> <p>The application has been investigated with respect to aspects relevant to the Building Certification and Fire Safety Department. There are no objections to approval of the development.</p> |
| Landscape Officer | <p><i>Supported, subject to Conditions</i></p> <p>Comparison between the Mod plans and the approved plans has been undertaken.</p> <p>The landscape outcome is generally as per the approved plans with some minor amendments.</p> <p>The condition requiring removal of 4 parking spaces at the front has been reflected in the Mod plans, so no objection to deletion of that condition.</p> <p>There doesn't appear to be any major landscape issues with the Mod that would require additional information.</p> <p>No objections are raised regarding landscape issues to the Modification</p> |

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| | <p>proposed. Deletion of the condition regarding the 4 parking spaces is not objected to as the amended plans now reflect this requirement.</p> |
| <p>Natural Environment & Climate Change (Bushland and Biodiversity)</p> | <p><i>Supported, no Conditions</i></p> <p>The minor changes to Condition 22 Engagement of Project Ecologist do not change the intent of the original condition and can be supported.</p> <p>Other changes to the building do not result in an increase potential for impacts to biodiversity values.</p> <p>Proposed changes to the stormwater management system design should be reviewed by Councils catchments team.</p> |
| <p>Natural Environment & Climate Change (Development Engineering)</p> | <p><i>Supported, subject to Conditions</i></p> <p><u>Original Comments</u> The Statement of Modification and associated documents, including the Stormwater Management plans have been reviewed. The proposed development is on a Low Level Property that cannot drain to the street. It is noted that the original approved plans by Acor Consultants dated 10.09.18 proposed a 240 cubic metre OSD system with a 250 mm orifice. The amended plans by Entec Consultants propose a reduced volume of 125 cubic metres. The design criteria on drawing C512 is not compliant with Council's Water Management for Development Policy. Amended on-site detention design is required in accordance with Section 5.5 and Appendix 3 of the policy.</p> <p><u>Revised Engineering Comments 18.02.25</u> Amended stormwater management plans have been provided. Development engineering raises no further objections to the proposed modification, subject to the removal of condition 16 of consent (On-site Stormwater Detention), the retention of all other engineering conditions of consent and the addition of the recommended conditions.</p> |
| <p>Natural Environment & Climate Change (Water Management)</p> | <p><i>Supported, subject to Conditions</i></p> <p>This application was assessed in consideration of:</p> <ul style="list-style-type: none"> • Supplied plans and reports; • Northern Beaches Water Management for Development Policy (WMD Policy); and • Relevant LEP and DCP clauses <p>The proposed stormwater management devices amendments are satisfactory.</p> <p>Subject to conditions</p> |
| <p>Strategic and Place Planning (Urban Design)</p> | <p><i>Supported, no Conditions</i></p> <p>This advice is provided as an internal referral from the Urban Design Unit to the Development Assessment Officer for consideration and coordination with the overall assessment.</p> <p>The application seeks consent to:</p> <ol style="list-style-type: none"> 1. Amend the ground level parking. 2. Rationalize the floorplans and layouts. 3. Make design refinements to the outdoor recreation areas. 4. Create a new sub-terrace generator room. 5. Install rooftop PV panels. 6. Increase the height of lift overruns. |

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| | <p>7. Incorporate acoustic screens to roof plants.</p> <p>The proposed modifications do not significantly change the approved built form. The proposed increases in height to the lift overruns and roof plant screens (to meet acoustic requirement) would have limited visibility from the surrounding sites and public domain areas.</p> <p>Urban Design raises no objection to the proposed development.</p> <p>Please note: Regarding any view impacts and any impacts on solar amenity and overshadowing, these matters will be dealt with under the evaluation of Council Planning Officer. Any impacts of non-compliances regarding heritage will be dealt with under the evaluation of Council Heritage Officer, and any Landscape non-compliances will be dealt with under the evaluation of Council Landscape Officer.</p> |
| <p>Strategic and Place Planning (Development Contributions)</p> | <p>Supported, subject to Conditions</p> <p>INTRODUCTION Mod2024/0550 seeks to modify works approved under Development Consent DA2018/1654 and certain conditions of consent. The applicant, as a part of this modification application has not requested any change to the contribution condition. However, since there is a change in cost of works, this application has been referred to Strategic and Place Planning on 22 October 2024.</p> <p>SUBJECT SITE The subject site is 181 Forest Way, Belrose. The subject site is within locality B2 <i>Oxford Falls Valley</i> under Warringah LEP 2000. The subject site contains a dwelling house.</p> <p>CHRONOLOGY DA2018/1654 for <i>Demolition works and Construction of a new aged care facility including underground parking</i> was approved by the Land and Environment Court on 22 October 2020. <i>Northern Beaches Section 7.12 Contributions Plan 2019</i> (the 2019 Plan) applies to DA2018/1654 and subsequent Modification applications. The consent contained Condition 8, as follows: 8. Policy Controls <i>Northern Beaches 7.12 Contributions Plan 2019</i> <i>A monetary contribution of \$277,248.10 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$27,724,810.00.</i> <i>The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.</i> <i>The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.</i> <i>The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au</i></p> |

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

As of 30 October, this payment remains outstanding and the condition has not been fulfilled. No Construction Certificate has been issued for the development. Mod2022/0289 was approved by the Sydney North Planning Panel on 26 April 2023. The application proposed a cost of works increase of \$357,060 to the development cost, resulting in a total cost of \$28,081,870. However, it appears that the cost summary report for Mod2022/0289 was miscalculated and added a further \$10,000,000 to the development cost for a total of \$38,081,870. As a result of this miscalculation, the modification was considered to be over \$30 million and as such was assessed by the Sydney North Planning Panel. Additionally, the contributions owed to Council was erroneously not amended from the parent DA. As a result, the contributions owed currently reflects only DA2018/1654 and not the additional development cost for Mod2022/0289.

ASSESSMENT OF CURRENT APPLICATION

This modification application seeks amendments to works approved under DA2018/1654. The modifications include internal and external alterations to approved works and amendments to certain conditions of consent. The modification does not seek amendment to the contribution condition however, since there is a change in cost of works, this application has been referred to Strategic and Place Planning.

Condition 8 of the consent remains unfulfilled and there is no Construction Certificate issued for the development, it is appropriate to modify condition 8 for the monetary contributions payable.

The revised cost estimate of \$28,388,528 is provided by the applicants' quantity surveyor against Mod2024/0550. The increase in construction cost proposed by this modification is \$306,658. This increase in estimated cost of works is due to additional landscape structure, undercroft pump room and lift stop. The revised figure provided by the quantity surveyor takes into account the costs against works approved under Mod2022/0289 getting the total cost of works to \$28,388,528. If the proposed modifications are supported by the Assessing Officer, condition 8 is required to be updated to ensure the contributions payable to Council is accurate and based on the updated cost of works.

RECOMMENDATION

The application as submitted if supported by the Assessing Officer, Condition 8 is to be amended to read as follows:

8. Policy Controls

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$283,885.28 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$28,388,528.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

| | |
|-------------------------|---|
| | <p><i>The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid. The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au. This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.</i></p> <p><i>Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.</i></p> |
| Traffic Engineer | <p>Supported, subject to Conditions</p> <p>The modification slightly reduces the number of beds but retains the approved number of 45 parking spaces in a different configuration. It is noted that the revised configuration does not rely upon tandem parking for staff parking which was the case in the court-approved plans.</p> <p>The parking arrangement proposed under the modification is preferable and not opposed. It is also noted that the developer seeks approval to delete condition 67 which required the introduction of basement traffic signals. The developer's traffic consultant has provided swept path plots to demonstrate that the largest vehicle using the basement (a Small Rigid Vehicle) can pass a B85 vehicle without the encroachment of travel paths other than at one point where there are good sight lines.</p> <p>Given the above, and noting that SRV's will be accessing the basement on an infrequent basis, the requirement for traffic signals is considered excessive and the condition can be removed. It shall however be replaced by the additional conditions limiting the size of vehicles permitted to access the basement and requiring the installation of convex mirrors to improve visibility between opposing vehicles using the basement ramp.</p> |
| Waste Officer | <p>Supported, no Conditions</p> <p>No objections raised. Existing court approved waste conditions of consent to remain (unchanged).</p> |

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

All, EPIs (State Environmental Planning Policies (SEPPs), Regional Environment Plans (REPs) and Local Environment Plans (LEPs)), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each EPIs (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the documents are not relevant or are enacting, definitions and operational provisions, which the proposal is considered acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs)

Further consideration is required for the following State policies:

SEPP (Biodiversity and Conservation) 2021

Chapter 4 - Koala habitat protection 2021

Part 4.2 requires:

Where there is no approved koala plan of management for site and the site has an area of at least 1 hectare (including adjoining land within the same ownership), the council must assess whether the development is likely to have any impact on koalas or koala habitat.

(3) If the council is satisfied that the development is likely to have low or no impact on koalas or koala habitat, the council may grant consent to the development application.

Comment:

The provisions of this policy apply as the site is greater than one hectare in size. The site does not represent potential or core koala habitat. Accordingly, no further consideration of the policy is required.

SEPP (Housing) 2021

Chapter 3 – Diverse housing

Part 5 – Housing for seniors and people with a disability

The parent application was made pursuant to WLEP 2000, which permits development for the purposes of *housing for older people or people with disabilities* on land within the B2 Oxford Falls Valley Locality. The original DA was not made pursuant to SEPP (HSPD) 2004.

Notwithstanding, clause 12(1)(b) of WLEP 2000 states that before granting consent for development the consent authority must be satisfied that the development is consistent with any relevant SEPP described in Schedule 5 (State policies).

State policies pertaining to housing for older people or people with a disability are nominated in Schedule 5.

However, section 80 (1)(b) of SEPP (Housing) 2021 states that this part of the SEPP does not apply to land to which WLEP 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North). In this regard, the provisions of SEPP (Housing) 2021 are not applicable to this modification and no further assessment is required in this instance.

SEPP (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Sub-section 4.6 (1)(a) of Chapter 4 requires the Consent Authority to consider whether land is contaminated. Council records indicate that the subject site has been used for residential purposes for a significant period of time with no prior land uses. In this regard it is considered that the site poses no risk of contamination and therefore, no further consideration is required under sub-section 4.6 (1)(b) and (c) of this Chapter and the land is considered to be suitable for the residential land use.

SEPP (Transport and Infrastructure) 2021

Ausgrid

Section 2.48 of Chapter 2 requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).
- immediately adjacent to an electricity substation.
- within 5.0 metres of an overhead power line.
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5.0m of an overhead electricity power line.

Comment:

The proposal was referred to Ausgrid who raised no objections, subject to conditions which have been included in the recommendation of this report.

Transport for NSW

Subdivision 2 Development in or adjacent to road corridors and road reservations:

Comment:

The response from the Transport for NSW can be found above, in the 'External Referrals' section of this report. In summary, no objections were raised.

LOCAL ENVIRONMENTAL PLANS

Warringah Local Environmental Plan 2011

The B2 Oxford Falls Valley locality (which cover the land subject to this Application) under the WLEP 2000 were proposed to be zoned E3 Environmental Management in the draft 2009 version of Warringah's standard instrument. This was based on a detailed translation methodology that was applied to all land within the former Warringah LGA.

In December 2011 the Minister for Planning, Industry and Environment deferred land in the Oxford Falls Valley and Belrose North areas from the Warringah Local Environmental Plan 2011 (WLEP 2011) in response to stakeholder concern regarding the adequacy of consultation during the preparation of WLEP 2011.

Accordingly, WLEP 2011 and the current Warringah Development Control Plan 2011 do not apply to this application.

Warringah Local Environment Plan 2000 (WLEP 2000)

WLEP 2000 applies to the subject land and the modification application is made pursuant to this instrument. Under WLEP 2000, the subject site is within the B2 Oxford Falls Valley Locality and the approved development to which this modification relates, is for the purposes of housing for older people or people with disabilities, is classified as a Category 2 Development.

The DFC statement for the B2 locality is as follows:

B2 Oxford Falls Valley Locality

The present character of the Oxford Falls Valley locality will remain unchanged except in circumstances specifically addressed as follows.

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

Each relevant element of the desired future character statement is discussed as follows

Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses.

(a) New detached style housing conforming with the housing density standards

The application pertains to modifications to an approved housing for older people or people with disabilities at the subject site. The works do not alter the approved land use or the approved operational requirements of the development. In this regard, Council is satisfied that the proposed development will not alter the present character of the Oxford Falls Valley locality.

The modified development is therefore consistent with this aspect of the DFC.

(b) Future development will be limited to new detached style housing conforming with the housing density standards set out below and low intensity, low impact uses. There will be no new development on ridgetops or in places that will disrupt the skyline when viewed from Narrabeen Lagoon and the Wakehurst Parkway.

As the proposal is not for detached housing, consideration is also required to be applied to whether the development is consistent with a 'low intensity and low impact' uses. An interpretation of low intensity and low impact uses was used in the NSW Land and Environment Court Case of *Vigor Master Pty Ltd v Warringah Shire Council* [2008] NSWLEC 1128. The interpretation of the judgement is provided as follows:

"Intensity: is commonly used to identify the nature of the proposal in terms of its size and scale and the extent of the activities associated with the proposal. Therefore, "low intensity" would constitute a development which has a low level of activities associated with it."

"Impact - is commonly used in planning assessment to identify the likely future consequences of proposed development in terms of its surroundings and can relate to visual, noise, traffic, vegetation, streetscape privacy, solar access etc. Therefore 'low impact' would constitute a magnitude of impacts such that was minimal, minor or negligible level and unlikely to significantly change the amenity of the locality".

Based on the above interpretation, intensity and impact are interconnected in terms of evaluating if the development results in an unacceptable impact, then the intensity of the development is too great. Accordingly, it is appropriate to consider the levels of impact first.

The works consist of changes to the internal floor plan layout, outdoor recreation spaces and the size and extent of the roof plant and screens. The modification as conditioned is generally consistent with the relevant built-form controls of the B2 locality, with the exception of the building height control, as discussed in Clause 20 of this report. Notwithstanding, the information provided with the application

demonstrates that the development is unlikely to have an adverse impact on the natural environment.

In regard to the intensity of the modified development, the proposed changes will have an indiscernible environmental impact beyond that approved, with the bulk of the development remaining consistent with the approved outcome as viewed from the street and neighbouring properties. No additional sources of noise, generation of emissions, additional employees or vehicular traffic are likely from the modifications. In addition, the operational characteristics of the approved facility will remain largely unchanged. In summary, the intensity of the proposed development will not vary significantly from the approved land use and is considered to be acceptable, subject to the recommended Conditions.

The modified development is, therefore, consistent with this aspect of the DFC.

The natural landscape including landforms and vegetation will be protected and, where possible, enhanced. Buildings will be located and grouped in areas that will minimise disturbance of vegetation and landforms whether as a result of the buildings themselves or the associated works including access roads and services. Buildings which are designed to blend with the colours and textures of the natural landscape will be strongly encouraged.

The modification seeks approval to change the rear retaining wall material from sandstone to concrete. The submitted elevations indicate that the approved retaining wall will be finished in white.



Figure 3. Proposed finishes of the rear retaining wall

This aspect of the DFC requires external colours to be sympathetic to the surrounding natural environment. A white finish is not acceptable due to its visual dominance. Therefore, a condition of consent will be included in this report to ensure that the rear retaining wall is finished in a medium to dark colour.

The modification does not introduce any significant changes to the approved building's appearance or footprint, apart from the additional rooftop plant and acoustic screening, which are considered minor elements.

Overall, the modified proposal, subject to recommended conditions, will not significantly impact landforms or vegetation.

The modified development is therefore consistent with this aspect of the DFC.

A dense bushland buffer will be retained or established along Forest Way and Wakehurst Parkway. Fencing is not to detract from the landscaped vista of the streetscape.

The modification retains the approved landscape outcome along Forest Way and is consistent with this component of the DFC.

Development in the locality will not create siltation or pollution of Narrabeen Lagoon and its catchment and will ensure that ecological values of natural watercourses are maintained.

The site is not located near a riparian area and so the impact of the proposed development is found to be satisfactory.

The modified development is consistent with this component of the DFC.

Conclusions on consistency with the DFC Statement

Having regard to the above assessment, it is concluded that the proposed modified development is consistent with the desired future character statement of the Oxford Falls Valley locality.

Built Form Controls for the B2 Oxford Falls Valley Locality

The following table outlines compliance with the Built Form Controls of the above locality statement:

| Built Form Standard | Required | Approved | S4.56 Compliance |
|-------------------------------|---|--|--|
| Housing density | Not Applicable (WLEP 2000 states that on land that adjoins a locality primarily used for urban purposes and which a dwelling house is permissible, there is no maximum housing density if the development is for the purposes of housing for older people or people with a disability and the development complies with the minimum standards set out in Clause 29.) | 0.32:1 - The development being housing for older people or people with a disability is consistent with the FSR provisions of Clause 29 and therefore the housing density is not applicable for this development. | Yes - 0.31:1 (50.7 m ² decrease) |
| Building height | 8.5m | The development has a maximum height of 9.38m. The lowest height of the upper level is approximately 6.03m. | No – 11.0m (Lift overrun) 9.4m (Acoustic screen) 8.8m (Pergola) |
| Front building setback | 20m | Main building – minimum of 20m Parking area – 3.7m | No change |
| Rear building setback | 10m | Minimum of 93m | No change |
| Side building setback | 10m | South: Minimum of 10m Maximum of 28.3m North: Minimum of 17.8m Maximum of 58.1m | No change No change |

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| | | | |
| Landscaped open space | 30% of the site area | 77.6% (16,446m ²) | No change |

Clause 20 states:

Notwithstanding clause 12 (2) (b), consent may be granted to proposed development even if the development does not comply with one or more development standards, provided the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State environmental planning policy.

In determining whether the proposal qualifies for a variation under Clause 20(1) of WLEP 2000, consideration must be given to the following:

General Principles of Development Control

The proposal is generally consistent with the General Principles of Development Control and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “General Principles of Development Control” in this report for a detailed assessment of consistency).

Desired Future Character of the Locality

The proposal is consistent with the Locality’s Desired Future Character Statement and accordingly, qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1) (See discussion on “Desired Future Character” in this report for a detailed assessment of consistency).

Relevant State Environmental Planning Policies

The proposal has been considered consistent with all applicable State Environmental Planning Policies. (Refer to earlier discussion under ‘State Environmental Planning Policies’). Accordingly, the proposal qualifies to be considered for a variation to the development standards, under the provisions of Clause 20(1).

Notwithstanding, in order to fully consider the application, the following provides an assessment of the non-compliance to the building height built form control.

In assessing these elements of the proposal, it is necessary to consider the merit considerations of the controls as detailed below:

Clause 20 – Building Height

Required: 8.5 metres

Proposed: 11.0 metres (max)

The height non-compliances are shown in the following section drawings and 3D Image.

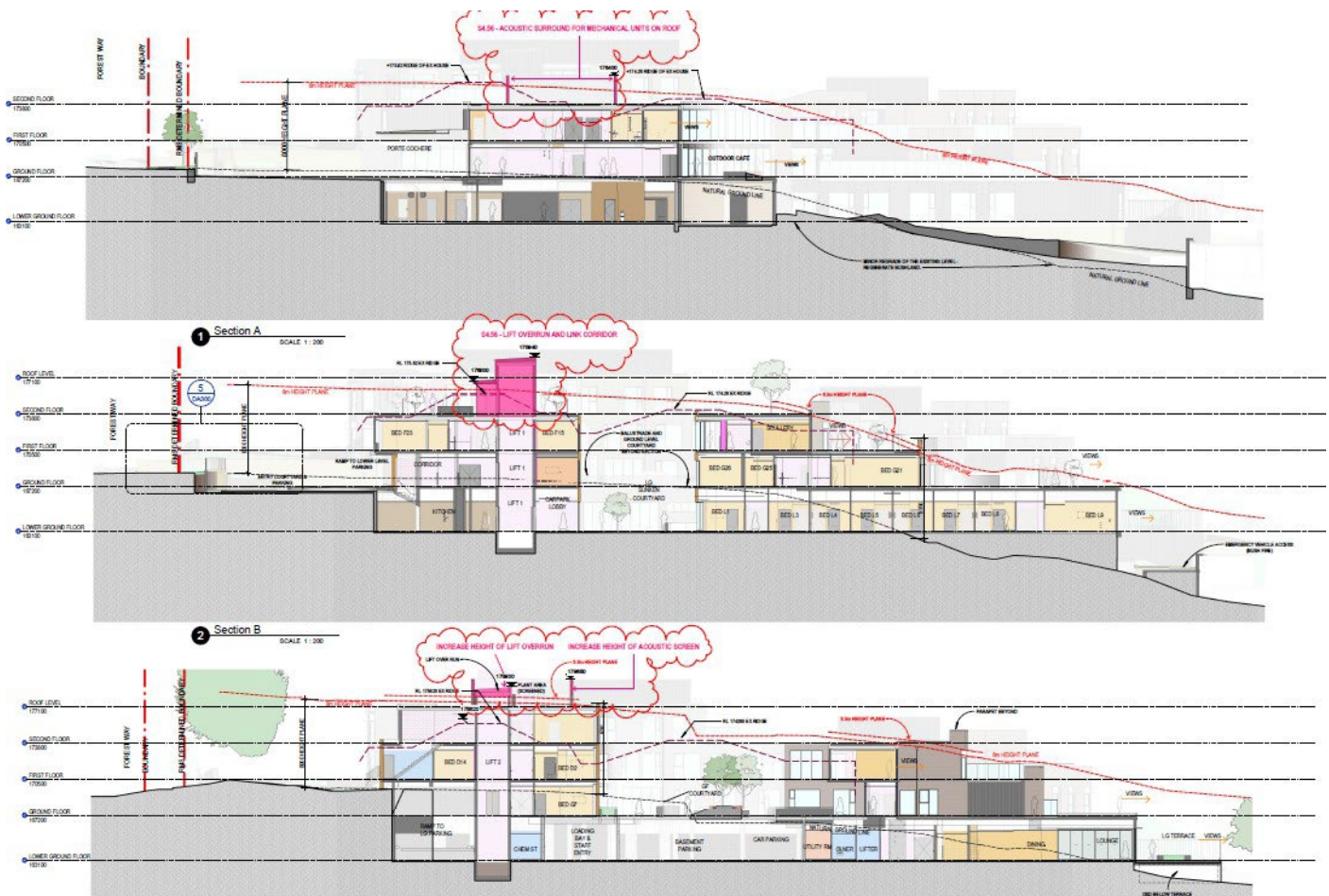


Figure 4 – Height breaches on Sections (Forest Way is on far left hand side, new works shown in pink and breaches are above the red-dashed height line)

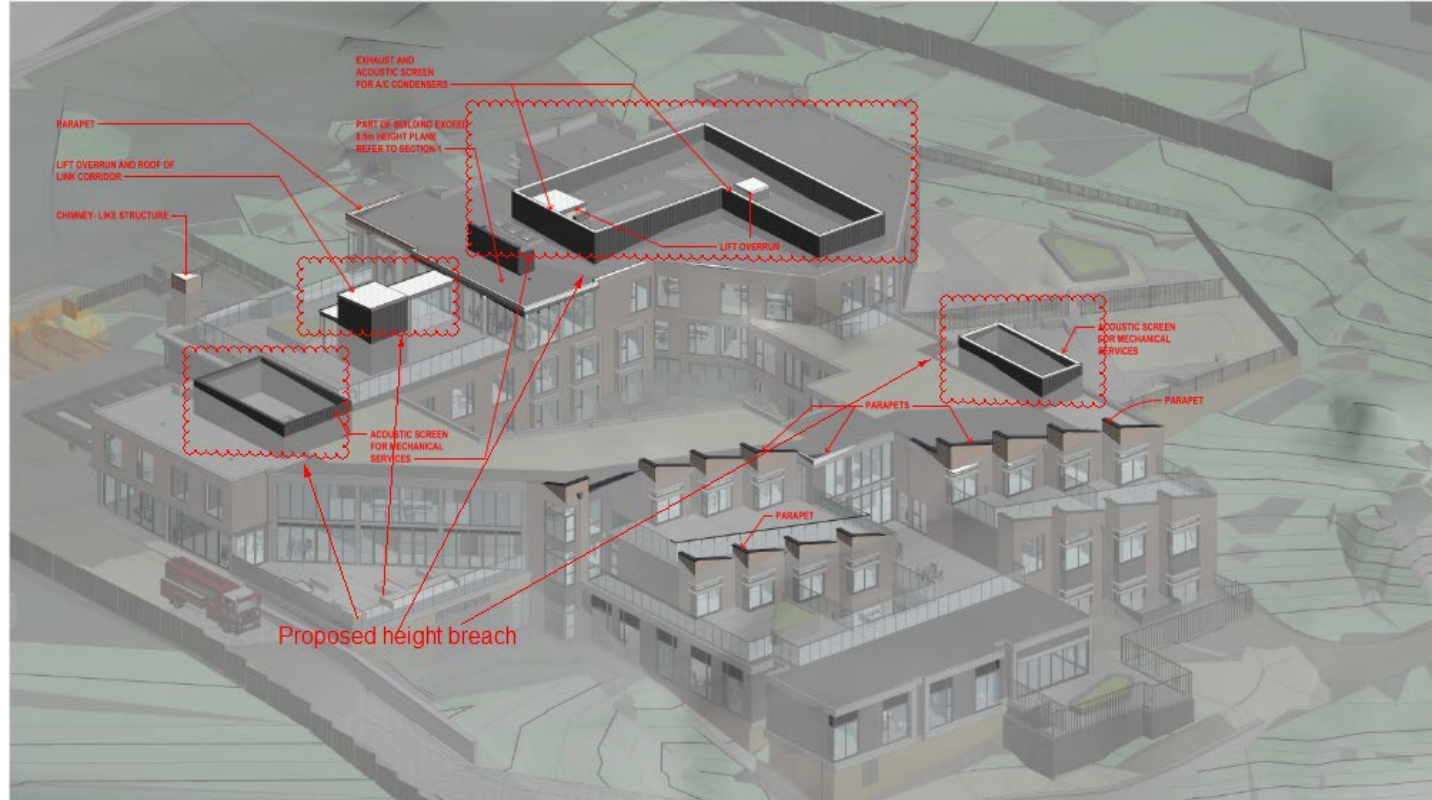


Figure 5 – Extent of the height breaches on 3D Image (Forest Way is to far left hand side, prepared by Applicant)

The above height plane diagram is not certified, however, the portions of buildings projecting above the 8.5 metres height plane are generally in alignment with Council's assessment against the architectural plan and are presented in a more practical format than a two-dimensional sectional drawing. On that basis, the diagrams can be used for assessment purposes.

Response:

In assessing this non-compliant element of the proposal, it is necessary to consider the merit considerations of the building height-built form control. Accordingly, consistency with the following merit considerations is addressed below:

- *Ensure that development does not become visually dominant by virtue of its height and bulk.*

Comment:

The additional elements of the building that breach the height are limited to a lift overrun, pergola, and plant screening. These elements are considered minor and are mainly located centrally on the development. The submitted information demonstrates that the breaches are mostly concealed by the approved perimeter planting when viewed from the street and nearby residential properties. Overall, these breaches will not result in the development becoming visually dominant.

- *Preserve the amenity of the surrounding land*

Comment:

The elements of the proposal breach of the height limit will not result in any overshadowing, privacy or other amenity impacts to the surrounding land.

- *Ensure that development responds to site topography and minimises excavation of the natural landform.*

Comment:

The modification introduces new elements to the rooftop and Level 2 communal open space and does not require any additional excavation to facilitate these works.

- *Provide separation between buildings*

Comment:

The modification retains the approved building separation.

- *Provide sufficient area for roof pitch and variation in roof design rather than a flat roof.*

Comment:

The modification does not seek any changes to the approved roof design.

As detailed above, the proposed development is considered to satisfy the requirements to qualify for consideration under Clause 20(1), in addition, the proposal is considered to be consistent with the underlying objectives of the building height-built form control. It is for these reasons that the variation to the building height-built form control, pursuant to Clause 20(1), is supported.

Clause 29 - On what grounds can applications for housing for older people or people with disabilities not be refused?

Clause 29 provides controls to establish on what grounds an application for housing for older people or people with disabilities cannot be refused.

The following table details whether the development meets the requirements and whether it can be refused:

| Development Standard | Required | Approved | Proposed | Complies |
|-------------------------------------|---|--------------------------------|---------------------------------------|----------|
| Building Height (to ceiling) | 8.0m | 8.0m | No change | N/A |
| Density and Scale | 0.75:1 or less (site area – 21,186m ²) | 0.32:1 | 0.31:1 (50.7 m ² decrease) | Yes |
| Landscaped Area | A minimum of 35m ² of landscaped area per dwelling and 25m ² of landscaped area per hostel or residential care facility bed is provided. 100 beds = 2,500m ² | 16,446m ² | No change | Yes |
| Parking | 1 parking space for each 10 beds in the hostel or residential care facility, and 1 parking space for each two persons to be employed in connection with the development and on duty at any one time, and 1 parking space suitable for an ambulance. 11 spaces for 105 beds | 45 spaces 1 ambulance space | No change | Yes |
| Deep Soil Area | (a) Site width (W) = 110m (average) (b) Site length (L) = 192m (average) (c) W x 15% of L Total required = 3,168m ² | 16,446m ² | No change | Yes |

General Principles of Development Control

Clause 12(1)(a) of WLEP 2000 states that prior to granting consent, Council must be satisfied that the proposal is consistent with the relevant general principles of development control contained in Part 4 of WLEP 2000.

The following General Principles of Development Control as contained in Part 4 of WLEP 2000 are applicable to the proposed development:

| General Principle | Comments | Complies |
|---------------------------------------|---|----------|
| Clause 38 Glare and reflection | The colours and materials chosen are unlikely to result in unreasonable glare and reflection. | Yes |

Clause 40 - Housing for Older People or People with Disabilities

The following table details compliance of the development against the access provisions of Clause 40 under the WLEP 2000.

| Control | Required | Approved | Proposed | Compliance |
|--------------------------|---|---|-----------|------------|
| Support Services | The site is within 400m of a shopping centre or bus stop; or The development is serviced by a transport service that is located not more than 400m from the site and is available both to and from the development during daylight hours at least once per day from Monday to Friday (inclusive). | The site is located less than 100m from a bus stop serviced by regular buses. | No change | Yes |
| | Reasonable access to home delivered meals, personal care and home nursing and assistance with housework. | The development is a residential care facility where all meals, personal care and assistance would be provided on site. | No change | Yes |
| Wheelchair access | (a) site gradient (i) if the whole of the site has a gradient of less than 1:10, 100% of the hostel or residential care facility beds and 100% of the dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, or (ii) if the whole of the site does not have a gradient of less than 1:10, a percentage (which is not less than the proportion of the site that has a gradient of less than 1:10, or 50%, whichever is the greater, and which in this subparagraph is called the specified minimum percentage) of any hostel or residential care facility beds and the specified minimum percentage of any dwellings must have wheelchair access by a continuous path of travel (within the meaning of AS 1428) to an adjoining public road or an internal road or a driveway that is accessible to all residents, and | The development provides wheelchair access to all parts of the building that the residents can access. | No change | Yes |
| | (b) road access at least 10% of any hostel or residential care facility beds and at least 10% of any dwellings which meet the requirements of paragraph (a) must have wheelchair access by a | All residential care facility beds have wheelchair access as access to each level is provided by lifts. | No change | Yes |

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| | continuous path of travel (within the meaning of AS 1428) to an adjoining public road, and | | | |
| | (c) common areas access must be provided so that a person using a wheelchair can use common areas and common facilities associated with the development, and | The common areas are all wheelchair accessible. | No change | Yes |
| | (d) adaptability 10% of any hostel or residential care facility beds and 10% of any dwellings which meet the requirements of paragraph (a) must also have, or be capable of being modified so that they have, wheelchair access by a continuous path of travel (within the meaning of AS 1428) to all essential areas and facilities inside the hostel, residential care facility or dwellings, including a toilet, bathroom, bedroom and a living area. | The proposed development has lift access to each level and wheelchair access is able to be provided to each room. In excess of 10% of bedrooms are accessible. | No change | Yes |

| General Principle | Comments | Complies |
|---|--|---------------------------------|
| Clause 42 Construction Sites | No changes from approval. | Yes |
| Clause 43 Noise | The modifications are not expected to generate any additional noise impacts beyond the approved outcome. | Yes |
| Clause 44 Pollutants | As per DA2018/1654 conditions. No change required. | Yes |
| Clause 48 Potentially Contaminated Land | No changes from approval. | Yes |
| Clause 49a Acid Sulphate Soils | The site is not located within, or near to, any land categorised as containing acid sulphate soil. | N/A |
| Clause 50 Safety & Security | The proposed modifications do not impact upon the developments ability to provide casual surveillance of the adjoining streets. | Yes |
| Clause 51 Front Fences and Walls | No changes to front fencing are proposed. | Yes |
| Clause 52 Development Near Parks, Bushland Reserves & other public Open Spaces | The site is adjoined by road reserves to the north, east and west, and a private property to the south. There is extensive bushland in the area and the proposal will not unreasonably detract from this. | Yes |
| Clause 53 Signs | No changes from approval. | Yes |
| Clause 54 Provision and Location of Utility Services | Yes, subject to DA2018/1654 conditions. No change required. | Yes |
| Clause 56 Retaining Unique Environmental Features on Site | The development as conditioned is designed to incorporate or be sympathetic to environmental feature. | Yes (via recommended condition) |

| | | |
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| Clause 57 Development on sloping land | Geotechnical recommendations imposed as part of the original application remain. | Yes |
| Clause 58 Protection of existing flora | The modification does not result in the removal of trees or unique environmental features (i.e. rock outcrops). | Yes |
| Clause 59 Koala habitat protection | The assessment by Council's Natural Environment Department has raised no objection in relation Koalas on site. | Yes |
| Clause 61 Views | Due to the topography and location of the site, it is unlikely that the proposed development will affect any significant views, which will warrant the refusal of the application. No submissions included view loss among the concerns. | Yes |
| Clause 62 Access to sunlight | The shadow diagrams submitted with the application indicates that the proposed development will achieve compliance with the requirement of this Clause. | Yes |
| Clause 63 Landscaped open space | No changes from approval. | Yes |
| Clause 63A Rear building setback | The proposal maintains a significant rear setback and meets the requirements of this principle. | Yes |
| Clause 65 Privacy | The modified development, in particular the outdoor sitting areas, are located a sufficient distance from the only neighbouring residential property to the south, such that it will not result in any unreasonable direct overlooking into habitable rooms and principal private open spaces. No additional architectural privacy treatments are required. | Yes |
| Clause 66 Building bulk | The modification does not seek any notable changes to the approved built form that will give rise to adverse building bulk. | Yes |
| Clause 67 Roofs | The application is supported by a cover letter from the applicant's Acoustic Engineer (JHA, March 2024), certifying that the raised acoustic screens have been designed to ensure compliance with the <i>NSW Noise Policy for Industry 2017</i> requirements. Notwithstanding, the proposed roof plant and additional acoustic screening as part of this modification are suitably set back from the parapet, minimising the visual impact. Overall, the lift overruns and other mechanical equipment will not detract from the appearance of roofs. | Yes |
| Clause 68 Conservation of Energy and Water | The proposal is not BASIX affected development but will suitably conserve energy and water. Space for solar panels has been provided on the roof. | Yes |
| Clause 69 Accessibility – Public and Semi-Public Buildings | No change proposed. | Yes |
| Clause 70 Site Facilities | As per DA2018/1654 conditions. No change required. | Yes |
| Clause 71 Parking Facilities (visual impact) | The modification will result in no changes to the approved open and basement car parking areas. | Yes |
| Clause 72 Traffic Access & Safety | The site was referred to both the Transport NSW and Council's Traffic Engineers. Each raised no objections, subject to conditions. | Yes |

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| Clause 73 On-site Loading and Unloading | No changes to loading and unloading proposed. | Yes |
| Clause 74 Provision of Car Parking | No change proposed. | Yes |
| Clause 75 Design of Car Parking Areas | No change proposed. | Yes |
| Clause 76 Management of Stormwater | Council's Development Engineer has reviewed the proposal and raised no objection to the modifications. | Yes |
| Clause 78 Erosion & Sedimentation | As per DA2018/1654 conditions. No change required. | Yes |
| CL83 Development of Known or Potential Archaeological Sites | As per DA2018/1654 conditions. No change required. | Yes |

SCHEDULES

| Schedule | Applicable | Compliant |
|--|-------------------|------------------|
| Schedule 5 State policies | Yes | Yes |
| Schedule 6 Preservation of bushland | Yes | Yes |
| Schedule 7 Matters for consideration in a subdivision of land | No | N/A |
| Schedule 8 Site analysis | Yes | Yes |
| Schedule 9 Notification requirements for remediation work | No | N/A |
| Schedule 10 Traffic generating development | No | N/A |
| Schedule 11 Koala feed tree species and plans of management | No | N/A |
| Schedule 12 Requirements for complying development | N/A | N/A |
| Schedule 13 Development guidelines for Collaroy/Narrabeen Beach | N/A | N/A |
| Schedule 14 Guiding principles for development near Middle Harbour | N/A | N/A |
| Schedule 15 Statement of environmental effects | Yes | Yes |
| Schedule 16 Principles and standards for housing for older people or people with disabilities | Yes | Yes |
| Schedule 17 Carparking provision | Yes | Yes |

POLICY CONTROLS

Section 7.12 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2021;
- All relevant and draft Environmental Planning Instruments;
- Warringah Local Environment Plan 2000;
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the desired future character of the locality under the WLEP 2000
- Consistent with the general principles of development control of the WLEP 2000
- Consistent with the aims of the WLEP 2000
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

PLANNING CONCLUSION

The current application Mod2024/0550 seeks approval to amend Development Consent No.DA2018/1654. The proposed modifications largely represent a refinement of the internal layout, which has no implications for the development as approved in terms of any further increases in bulk, scale or streetscape modifications.

The proposal was advertised, and two (2) submissions were received, however, they do not warrant the refusal of this modification.

Overall, the proposed modifications will have a minor and acceptable environmental impact beyond that originally approved, with the streetscape and character of the development remaining relatively unchanged.

The application was made pursuant to the WLEP 2000, not to SEPP (Housing) 2021 which does not apply. The height non compliances with the controls contain in WLEP 2000 has been assessed against Clause 20, and the proposal is consistent with the Part 4 General Principles of development control and the Desired Future Character of the B2 Oxford Falls Locality statement.

Accordingly, the application is recommended for approval subject to the modified conditions. It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

As a direct result of the consideration of the matters detailed within this report, it is recommended that the Sydney North Planning Panel, as the consent authority, approve the application subject to the conditions detailed below.

RECOMMENDATION

THAT Sydney North Planning Panel as the consent authority grant approval to Modification Application No. Mod2024/0550 for Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking on land at Lot 3 DP 805710,181 Forest Way, BELROSE, subject to the conditions outlined in Attachment 1.

ATTACHMENT 1

| | |
|---------------------|--------------|
| Application Number: | Mod2024/0550 |
|---------------------|--------------|

| | |
|---------------------------------|--|
| Land to be developed (Address): | Lot 3 DP 805710, 181 Forest Way BELROSE NSW 2085 |
|---------------------------------|--|

| | |
|-----------------------|---|
| Proposed Development: | Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking |
|-----------------------|---|

Modification Summary

The development consent is modified as follows:

MODIFICATION SUMMARY TABLE

| Application Number | Determination Date | Modification description |
|--------------------|--------------------|--------------------------|
|--------------------|--------------------|--------------------------|

| | | |
|--------------------------------------|---|---|
| <p>PAN-474865 - Mod2024/0550</p> | <p>The date of this notice of determination</p> | <p>Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking</p> <ul style="list-style-type: none"> • Add Condition No.2B - Modification of Consent Approved Plans and supporting documentation • Modify Condition No. 5 - RMS Conditions • Modify Condition No.7A - Compliance with Other Department, Authority or Service Requirements • Modify Condition No.8 - Policy Controls Modify • Condition No.11A - Amendments to the approved plans • Modify Condition No.12 - Detailed Design of Stormwater Quality System • Delete Condition No.16 - On-site Stormwater Detention • Add Condition No.16A - On-Site Stormwater Detention Details • Modify Condition No.22 Engage a Project Ecologist • Add Condition No.30A - National Construction Code (BCA) upgrade requirements and Fire Safety upgrade • Add Condition No.30B - Waste and Service Vehicle Access • Add Condition No.45A - Substitution of Stormwater Treatment Measures • Modify Condition No.49 - Certification for the Installation of Stormwater Quality System • Modify Condition No.53 - Stormwater Quality Operation and Maintenance Plan • Delete Condition No.56 - Installation of Water Efficient Fittings • Modify Condition No.65 - Fire Safety Matters • Delete Condition No.67 - Basement Servicing - Internal Signals • Add Condition No.69 - Convex Mirrors on Ramps |
|--------------------------------------|---|---|

| | | |
|------------------------------|---------------|---|
| PAN-227699 - Mod2022/0289 | 26 April 2023 | <p>Modification of Development Consent DA2018/1654 granted for Demolition works and Construction of a new aged care facility including underground parking</p> <ul style="list-style-type: none"> • Add Condition No.2A - Modification of Consent Approved Plans and supporting Documentation to read as follows • Modify Condition No. 5 - RMS Conditions • Add Condition No.7A - Compliance with Other Department, Authority or Service Requirements Add • Condition No. 11A - Amendments to the approved plans • Modify Condition No. 29 - Public Liability Insurance Works on Public Land • Modify Condition No. 30 - Removal of AWTS |
|------------------------------|---------------|---|

Modified conditions

A. Add Condition No.2B - Modification of Consent - Approved Plans and supporting documentation, to read as follows:

Development must be carried out in accordance with the following approved plans (stamped by Council) and supporting documentation, except where the conditions of this consent expressly require otherwise.

| Approved Plans | | | | |
|-----------------------|------------------------|--|-------------------------------------|---------------------|
| Plan Number | Revision Number | Plan Title | Drawn By | Date of Plan |
| DA050 | Y | Site Plan | Morrison Design Partnership Pty Ltd | 20 May 2024 |
| DA054 | F | Site Details | Morrison Design Partnership Pty Ltd | 30 April 2024 |
| DA101 | H | Lower Ground Floor Plan | Morrison Design Partnership Pty Ltd | 5 March 2024 |
| DA102 | S | Ground Floor Plan | Morrison Design Partnership Pty Ltd | 20 May 2024 |
| DA103 | R | First Floor Plan | Morrison Design Partnership Pty Ltd | 5 March 2024 |
| DA104 | Q | Second Floor Plan | Morrison Design Partnership Pty Ltd | 5 March 2024 |
| DA105 | H | Roof Plan | Morrison Design Partnership Pty Ltd | 20 May 2024 |
| DA200 | J | Elevations & Colour and Finishes Board - Sheet 1 | Morrison Design Partnership Pty Ltd | 27 September 2024 |

| | | | | |
|---|---|--|-------------------------------------|-------------------------|
| DA201 | J | Elevations & Colour and Finishes Board - Sheet 2 | Morrison Design Partnership Pty Ltd | 27 September 2024 |
| DA300 | K | Sections | Morrison Design Partnership Pty Ltd | 29 January 2024 |
| Approved Reports and Documentation | | | | |
| Document Title | | Version Number | Prepared By | Date of Document |
| Biodiversity Management Plan | | V02 | Cumberland Ecology | 10 May 2024 |
| Bushfire Cover Letter | | - | Bushfire Consulting Services | 10 February 2025 |
| Transport Assessment | | - | JMT Consulting | 20 March 2024 |

In the event of any inconsistency between the approved plans, reports and documentation, the approved plans prevail.

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

Reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

B. Modify Condition No.5 - RMS Conditions, to read as follows:

All conditions stipulated in the RMS correspondence (reference: SYD17/01004/09 (A22630902) dated 6 June 2018 shall be complied with and the necessary conditions addressed prior to the relevant stages of the works. Applicable certificates shall not be released until such time as the RMS conditions have been satisfied.

The conditions are as follows:

1. Roads and Maritime has previously resumed and dedicated a strip of land as road along the ForestWay frontage of the subject property, as shown by grey colour on the attached Aerial – “X”

Therefore, all buildings and structures, together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Forest Way boundary.

However, the proponent should be advised that the Deceleration Lane and any associated works should be dedicated as public road. The property boundary should be suitably adjusted.

2. Any redundant driveway on the Forest Way boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter on Forest Way shall be in accordance with TfNSW requirements.

Detailed design plans of the proposed kerb and gutter are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

3. All vehicles are to enter and exit the site in a forward direction.
4. All vehicles are to be wholly contained on site before being required to stop.
5. Sight distances from the proposed vehicular crossing to vehicles on Forrest way are to be in accordance with the Austroads 'Guide to Traffic Engineering Practice, Part 5: Intersections at Grade, Section 6.2 – Sight Distance' and AS 2890. Vegetation and landscaping / fencing must not hinder sight lines to and from the vehicular crossings to motorists, pedestrians and cyclists.
6. The proposed deceleration lane and access into the site shall be designed to meet Roads and Maritime requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to Roads and Maritime for consideration and approval prior to the release of the Construction Certificate by the Principal Certifying Authority and commencement of road works.

The developer may be required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. Please note that the WAD will need to be executed prior to Roads and Maritime assessment of the detailed civil design plans.

Roads and Maritime fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of works.

7. The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2020/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

8. Detailed design plans including hydraulic calculations of any changes to the stormwater drainage system in Forest Way are to be submitted to TfNSW for approval prior to the issue of a Construction Certificate and commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

The developer is required to enter into a Works Authorisation Deed (WAD) for the abovementioned works. A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved plans by TfNSW.

9. All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Forest Way.
10. A Road Occupancy Licence (ROL) shall be obtained from the Transport Management Centre (TMC) for any works that may impact on traffic flows on Forest Way during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.js>.

11. Any public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening /underboring to be submitted to TfNSW for review and acceptance prior to the commencement of any works. The developer must also obtain necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.

Reason: To ensure TfNSW conditions are satisfied prior to the relevant certificates being released.

C. Modify Condition No.7A - Compliance with Other Department, Authority or Service Requirements, to read as follows:

The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

| Other Department, Authority or Service | EDMS Reference | Dated |
|--|---------------------------|------------------|
| Ausgrid | Ausgrid Referral Response | 14 November 2024 |
| NSW Rural Fire Service | Response RFS Referral | 6 March 2025 |
| NSW Police | Response Police Referral | 30 June 2022 |

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

D. Modify Condition No.8 - Policy Controls, to read as follows:

Northern Beaches 7.12 Contributions Plan 2019

A monetary contribution of \$283,885.28 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2019. The monetary contribution is based on a development cost of \$28,388,528.00.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2019 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au.

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

E. Modify Condition No.11A - Amendments to the approved plans, to read as follows:

The following amendments are to be made to the approved plans:

- The rear retaining wall, adjacent to the fire trail and lower ground garden area, must be finished in dark or earthy tones.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

F. Modify Condition No.12 - Detailed Design of Stormwater Quality System, to read as follows:

A certificate from a Civil Engineer, stating that the stormwater treatment measures have been designed in accordance with the ENTEC Civil Stormwater Section 4.56 Amendment Letter (1 May 2024), ENTEC Civil Drawing 230074-01 rev B October 23 pages C100, C101, C102, C201, C301, C310, C501, C510, C511, C512, C520 and Council's Water Management for Development Policy.

The certificate shall be submitted to the Certifier prior to the release of the Construction Certificate.

Reason: Protection of the receiving environment.

G. Delete Condition No.16 - On-site Stormwater Detention.

H. Add Condition No.16A - On-Site Stormwater Detention Details, to read as follows:

The Applicant is to provide a certification of drainage plans detailing the provision of on-site stormwater detention in accordance with Northern Beaches Council's Water Management for Development Policy, and generally in accordance with the concept drainage plans prepared by Entec Consultants, project number 230074-01, dated 06.02.25.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to Engineers Australia, National Engineers Register (NER) or Professionals Australia (RPENG) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification, are to be submitted to the Certifier for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development.

I. Modify Condition No.22 Engage a Project Ecologist, to read as follows:

A Project Ecologist is to be employed for the duration of the approved works, and for a 5-year period post construction, to ensure all bushland biodiversity protection measures are carried out according to the conditions of consent and the following approved reports and plans:

- Biodiversity Development Assessment Report (Cumberland Ecology 19 November 2019)
- Biodiversity Management Plan (Cumberland Ecology 10 May 2024)

The Project Ecologist must be an accredited assessor under the NSW Biodiversity Conservation Act 2016.

The project ecologist is to provide an engagement letter for the period of construction, which is to be submitted to and certified by the Principal Certifying Authority Prior to issue of Construction Certificate.

The project ecologist is to provide an engagement letter for the 5-year period post construction, which is to be submitted to and certified by the Principal Certifying Authority Prior to issue of Occupation Certificate. The Project Ecologist must also provide details and certify engagement of a bush regeneration company to complete on-ground works.

Reason: To protect native vegetation and wildlife in accordance with relevant Natural Environmental LEP/DCP controls.

J. Add Condition No.30A - National Construction Code (BCA) upgrade requirements and FireSafety upgrade, to read as follows:

The National Construction Code works as detailed and recommended in the BCA Assessment Report prepared by Steve Watson & Partners, dated 28 March 2024, Report Ref No. 2023/2268 R1.0, are to be considered as part of the assessment of the Construction Certificate.

Details demonstrating compliance are to be provided to the Certifier prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, Access & Fire Safety for building occupant health & safety.

K. Add Condition No.30B - Waste and Service Vehicle Access, to read as follows:

Access to the on-site lower ground floor loading bay area including ramp grades, transitions and height clearance shall be restricted to use by vehicles no larger than a 6.4m SRV. The loading bay and access to/from the loading bay shall be designed for safe forward in and forward out access of a 6.4m SRV as a minimum requirement. The height clearance required is 3.5m, measured from the floor level to any overhead structures such as pipes.

Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 6.4m

SRV moving to and from the loading bay and Forest Way shall be submitted to Council's Traffic Engineer for approval with such approval provided to the Principal Certifier prior to the issue of the Construction Certificate.

Reason: To ensure adequate service vehicle access.

L. Add Condition No.45A - Substitution of Stormwater Treatment Measures, to read as follows:

The substitution of an "equivalent" device for the stormwater treatment measure approved under the Development Consent must be submitted to the Principal Certifier for approval prior to installation.

The biofiltration device cannot be substituted by another filtration mechanism.

Reason: To ensure stormwater is appropriately managed and in accordance with the Water Management for Development Policy.

M. Modify Condition No.49 - Certification for the Installation of Stormwater Quality System, to read as follows:

A certificate from a Civil Engineer, who has membership to Engineers Australia and the National Engineers Register must be provided, stating that the stormwater treatment measures have been installed in accordance with the plans prepared by ENTEC Civil dated February 2025. The certificate must confirm that stormwater treatment measures are completed, online, in good condition and are not impacted by sediment. Vegetated measures must exhibit an 80 percent survival rate of plantings.

The certificate shall be submitted to the Principal Certifier prior to the release of an Occupation Certificate.

Reason: Protection of the receiving environment.

N. Modify Condition No.53 - Stormwater Quality Operation and Maintenance Plan, to read as follows:

An Operation and Maintenance Plan is to be prepared to ensure the proposed stormwater treatment measures remain effective.

The Plan must be attached to the Positive Covenant (and the community or strata management statement if applicable) and contain the following:

1. Detail on the stormwater treatment measures:
 - a) Work as executed drawings
 - b) Intent of the stormwater treatment measures including modelled pollutant removal rates
 - c) Site detail showing catchment for each device
 - d) Vegetation species list associated with each type of vegetated stormwater treatment measure
 - e) Impervious area restrictions to maintain the water balance for the site
 - f) Funding arrangements for the maintenance of all stormwater treatment measures
 - g) Identification of maintenance and management responsibilities
 - h) Maintenance and emergency contact information
2. Maintenance schedule and procedure - establishment period of one year following commissioning of the stormwater treatment measure:
 - a) Activity description, and duration and frequency of visits Additionally for vegetated devices:
 - b) Monitoring and assessment to achieve an 80 percent survival rate for plantings
 - c) Management of weeds, pests and erosion, with weed and sediment cover limited to a maximum of 5 percent of the total area of the stormwater treatment measure
3. Maintenance schedule and procedure - ongoing
 - a) Activity description, and duration and frequency of visits
 - b) Routine maintenance requirements
 - c) Work Health and Safety requirements
 - d) Waste management and disposal

- e) Traffic control (if required)
- f) Renewal, decommissioning and replacement timelines and activities of all stormwater treatment measures (please note that a DA may be required if an alternative stormwater treatment measure is proposed)
- g) Requirements for inspection and maintenance records, noting that these records are required to be maintained and made available to Council upon request.

Details demonstrating compliance shall be submitted to the Principal Certifier prior to the release of the Occupation Certificate.

Reason: Protection of the receiving environment.

O. Delete Condition No.56 - Installation of Water Efficient Fittings.

P. Modify Condition No.65 - Fire Safety Matters, to read as follows:

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of a part Occupation Certificate or Occupation Certificate. Each year the Owners must send to the Council and Fire and Rescue NSW, an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Parts 10, 11 & 12 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021

Q. Delete Condition No.67 - Basement Servicing - Internal Signals.

R. Add Condition No.69 - Convex Mirrors on Ramps, to read as follows:

Two (2) convex mirrors are to be installed and maintained at the base and at the elbow bend midway along the curved ramp leading from ground floor to the lower ground floor carpark. Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Reason: To minimise vehicular conflicts on the carpark ramp.